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10/007,641	11/06/2001	Kevin C. Hutton	GOLDENH.004A	9987

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EXAMINER	
LE, LINH GIANG	

ART UNIT	PAPER NUMBER
3686	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/007,641	HUTTON ET AL.	
	Examiner	Art Unit	
	MICHELLE LE	3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12 and 14-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12 and 14-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *010609*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to Remarks filed 18 March 2009. No claims have been amended. Claims 1-12, 14-19 remain pending. Acknowledgment is made of Information Disclosure Statement dated 1/6/09.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak (2002/0004729) in view of Shults (6,324,516) and Crucs (5,900,883).

4. As per claim 1, Zak discloses a computerized, integrated emergency medical transportation database system. Zak further discloses a medical emergency database configured to store at least clinical encounter data, patient

demographic data and transport data wherein at least a portion of the data is input by medical emergency personnel (Zak; Paras. 19 and 37).

Zak does not expressly disclose:

a compliance audit component in communication with the medical emergency database, wherein the compliance audit component is configured to:

check to ensure that data in the medical emergency database for a current encounter is consistent with a high risk compliance area,

However, these features are well known in the art as evidenced by Shults. In particular, Shults teaches a system that audits medical bills for compliance with state, PPO and provider rules (Shults; Col. 3, lines 57-60). Shults further teaches checking to ensure that an item on the medical is authorized by the UR agreement. Examiner submits that these features of Shults read upon checking to ensure that data in the database is consistent with a high risk compliance area. Shults further teaches flagging a line for further review if an item is not authorized (Shults; Col. 4, lines 17-18). One of ordinary skill in the art would add these features from Shults to Zak with the motivation of providing a complete medical bill processing system that can check the entire bill against applicable rules (Shults; Col. 2, lines 39-42).

Zak also does not expressly teach prompting the emergency medical personnel for correction of the data where the data is not consistent. However this is well known in the art as evidenced by Crucs. In particular, Crucs teaches determining if the magic number is valid and if the number is invalid, prompting the user that the diskette

contains invalid image data (Crucs; col. 9, lines 10-35). Thus it is old and well known in the art to prompt a user where data is not consistent. Furthermore, Applicant attempts to distinguish prompting emergency medical personnel from a regular user. However, Examiner submits that prompting teaching of Crucs could be combined in a system such as Zak. Since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

5. As per claim 2, Zak does not expressly teach additionally comprising a billing module in communication with the medical emergency database, the billing module receiving data from the compliance audit component. However, this is well known in the art as evidenced by Shults. In particular, Shults teaches a "bill review server" that reads upon the "compliance audit component" (Shults; Fig. 3, and Col. 6, lines 37-58). One of ordinary skill in the art would add these features from Shults to Zak with the motivation of providing a complete medical bill processing system that can check the entire bill against applicable rules (Shults; Col. 2, lines 39-42).

6. As per claim 3, Zak does not expressly teach wherein the compliance audit component is additionally configured to record one or more attempts to obtain missing requirement data. However, this is well known in the art as evidenced by Shults. In

particular, Shults teaches a "bill review server" that processes a bill according to Shults, Fig. 2. Examiner submits that the step of checking for duplicate billing (Shults, Col. 6, lines 25-30) reads upon recording one or more attempts to obtain missing requirement data. One of ordinary skill in the art would add these features from Shults to Zak with the motivation of providing a complete medical bill processing system that can check the entire bill against applicable rules (Shults; Col. 2, lines 39-42).

7. As per claim 4, Zak does not expressly teach wherein the compliance audit component is additionally configured to apply a set of rules to determine whether the data for the current encounter is consistent with the high risk compliance area. However, this is well known in the art as evidenced by Shults. IN particular Shults teaches a system that audits medical bills for compliance with state, PPO and provider rules (Shults; Col. 3, lines 57-60). One of ordinary skill in the art would add these features from Shults to Zak with the motivation of providing a complete medical bill processing system that can check the entire bill against applicable rules (Shults; Col. 2, lines 39-42).

8. As per claim 5, Zak does not expressly teach additionally comprising a dispatch and demographic module in communication with the medical emergency database, the dispatch and demographic module providing data to the compliance audit component. However, this is well known in the art as evidenced by Shults. In particular Shults

teaches a "UR Database" (Shults; Col. 5, lines 50-60 and Col. 6, lines 37-58). Examiner submits that the "UR Database" reads upon a dispatch and demographic module. One of ordinary skill in the art would add these features from Shults to Zak with the motivation of providing a complete medical bill processing system that can check the entire bill against applicable rules (Shults; Col. 2, lines 39-42).

9. As per claim 6, Zak does not expressly teach wherein the dispatch and demographic module provides patient demographic data or transport data. However, this is well known in the art as evidenced by Shults. In particular Shults teaches a "UR Database" (Shults; Col. 5, lines 50-60 and Col. 6, lines 37-58). Examiner submits that the "UR Database" contains "pretreatment authorization requests" and "UR agreements" that contain patient demographic data. One of ordinary skill in the art would add these features from Shults to Zak with the motivation of providing a complete medical bill processing system that can check the entire bill against applicable rules (Shults; Col. 2, lines 39-42).

10. As per claim 7, Zak teaches additionally comprising a clinical module in communication with the medical emergency database, the clinical module providing data to the compliance audit component (Zak; Fig. 1). Examiner submits that the "Diagnostic and Monitoring Equipment 3" reads upon a "clinical module."

11. As per claim 8, Zak teaches wherein the clinical module provides a diagnosis description and a treatment description (Zak; Fig. 1). Examiner submits that the "vital signs data" coming from the "Diagnostic and Monitoring Equipment 3" and all the data including exam and treatment data coming form the "Emergency Medical Technician 5) reads upon a "diagnosis description" and "treatment description."

12. Claim 9 repeats the limitations of claim 1 and the reasons for rejection are incorporated herein.

13. As per claim 10, Zak does not expressly teach additionally comprising providing the corrected data to a billing module. However this is well known in the art as evidenced by Shults. IN particular Shults teaches in Fig. 3 information flowing from the "bill review server" back to the "bills database." One of ordinary skill in the art would add these features from Shults to Zak with the motivation of providing a complete medical bill processing system that can check the entire bill against applicable rules (Shults; Col. 2, lines 39-42).

14. As per claim 11, Zak does not expressly teach additionally comprising prompting for correction of the data where the data is not compliant. However this is well known in the art as evidenced by Crucs. In particular, Crucs teaches determining if the magic number is valid and if the number is invalid, prompting the user that the diskette

contains invalid image data (Crucs; pg. 9, lines 10-35). Thus it is old and well known in the art to prompt a user where data is not consistent. Since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable. Kessler

15. As per claims 14 and 15 Shults teaches wherein the compliance audit component is configured to receive additional data from a user in response to the prompt for correction of the data and wherein the additional data comprises information regarding the process of acquiring the data by a user (Shults; Col. 6, lines 38-58 and Col. 7, lines 16-34).

16. Claims 12, 16-19 are rejected under 35 U.S.C. 103(a) as being obvious by Zak (2002/0004729) in view of Shults (6,324,516) and Crucs (5,900,883) in further view of Kessler (2001/0034618).

17. Claim 12 repeats the limitations of claims 1 and 9 and the reasons for rejection are incorporated herein. Furthermore, Zak in view of Shults and Crucs do not expressly teach: a billing module in communication with the medical emergency database, the. billing module receiving corrected data from the compliance filter, and the billing module

being configured to generate a bill based at least in part on the corrected data. However, this feature is well known in the art as evidenced by Kessler. Kessler teaches a Health Care Payment and Compliance System (HCPACS) (Kessler; Pg. 5, para. 102). Examiner interprets the HCPACS to read on a "billing module." It would have been obvious to one of ordinary skill in the art to add this feature with the motivation of simplifying and accelerating the process of providing health care to beneficiaries (Kessler; Pg. 1, Para. 10).

18. As per claims 16-19 Zak, Shults and Crucs do not collectively teach:

wherein the billing module is configured to generate a bill based at least in part on the output of the compliance audit module;

wherein the billing module is configured to electronically submit the bill to a payor;

generating a bill based at least in part on the corrected data.

submitting the bill to a payor.

However, these billing features are well known in the art as evidenced by Kessler. In particular, Kessler teaches a Health Care Payment and Compliance System (HCPACS) (Kessler; Pg. 5, para. 102). Examiner interprets the HCPACS to read on a "billing module." It would have been obvious to one of ordinary skill in the art to add this

feature with the motivation of simplifying and accelerating the process of providing health care to beneficiaries (Kessler; Pg. 1, Para. 10).

Response to Arguments

19. Applicant's arguments filed 18 March 2009 have been fully considered but they are not persuasive.

(A) Applicant argues on pg. 6 of the 3/18/09 Remarks that Zak and Shults are directed to different purposes and thus cannot teach the limitations of claim 1. In response to applicant's argument that Zak and Shults are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Zak and Shults are in the computer arts and both prior art references are *reasonably pertinent* to the problem of gathering and auditing data. Applicant wants to emphasize that the database is a medical transportation database system however Applicant is arguing an intended use of the system. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

The structure taught by Shults is capable of being a "compliance audit" component even if it does not deal medical emergency data.

Furthermore Applicant argues that there is no motivation to combine the cited references. As discussed in the *KSR International Co. v. Teleflex Inc. et al.*, 127 S.Ct 1727 (2007), "[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) ('[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness'). As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ" (emphasis added). *KSR* further instructs that if the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Shults teaches that a “compliance audit” feature is an old element and well-known in the computer arts. This feature would have performed the same function in combination with Zak as it would have separately thus the combination was predictable.

(B) Applicant next argues that Zak in view of Shults and Crocs do not teach the limitation of a system that will “prompt the emergency medical personnel for correction of the data where the data is not consistent.” Applicant argues that Crocs does not teach for a prompt for correction of data. Examiner disagrees. In Crocs a user is prompted to insert a new diskette if the data read of the first diskette is not consistent. Thus data is being read off the new diskette in order to determine if the magic number is incorrect and reads on the “correction of data.”

Applicant argues there would be no motivation to combine the Crocs teachings with Zak and Shults. As stated earlier *KSR* teaches “… the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." Crocs is also relevant in the computer arts and the teachings show that prompting for the correction of data is an old and well-known technique in the art.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELLE LE whose telephone number is (571) 272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gerald O'Connor can be reached on (571) 272-3600. The fax phone

number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

5/23/09
/M. L./
Examiner, Art Unit 3686

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686